

# SENATE MOTION

**MR. PRESIDENT:**

**I move** that House Bill 1509 be amended to read as follows:

1           Page 2, between lines 37 and 38, begin a new paragraph and insert:  
2           "SECTION 8. IC 4-13.6-4-10 IS AMENDED TO READ AS  
3           FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) A contractor  
4           having a contract with the division for a public works project may enter  
5           into a subcontract with a value of one hundred **fifty** thousand dollars  
6           ~~(\$100,000)~~ **(\$150,000)** or more, involving the performance of any part  
7           of the public work upon which the contractor may be engaged only if  
8           the subcontractor has been properly qualified under the terms of this  
9           chapter for the work subcontracted.

10          (b) A contractor that enters into a public works contract with an  
11          estimated cost of one hundred **fifty** thousand dollars ~~(\$100,000)~~  
12          **(\$150,000)** or more must complete at least twenty percent (20%) of the  
13          work (measured in dollars of the total contract price) with its own  
14          forces. The director may determine whether a contractor has completed  
15          at least twenty percent (20%) of the work with its own forces, and this  
16          determination is final and conclusive.

17          (c) The director may find a contractor violating this section to be in  
18          breach of the contract and may employ any legal remedies or  
19          administrative remedies that the department may prescribe by rule or  
20          in the contract documents. The division may develop contract  
21          provisions that assure compliance by contractors with this section and  
22          provide for remedies if a contractor breaches these provisions."

23          Page 5, between lines 6 and 7, begin a new paragraph and insert:

24          "SECTION 10. IC 36-1-12.5-3 IS AMENDED TO READ AS  
25          FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) As used in this  
26          chapter, "qualified provider" means **the following**:

27               **(1) Before July 1, 1999, the term means** a person that **satisfies**  
28               **both of the following**:

29                   ~~(1)~~ **(A) The person** is experienced in the design,  
30                   implementation, and installation of energy conservation  
31                   measures. ~~and~~

32                   ~~(2)~~ **(B) The person** submits to the school corporation or  
33                   political subdivision a performance bond to ensure the

qualified provider's faithful performance of the qualified provider's obligations over the term of the guaranteed energy savings contract.

**(2) After June 30, 1999, the term means a person that satisfies all of the following:**

**(A) The person is experienced in the design, implementation, and installation of energy conservation measures.**

**(B) The person is certified and meets the requirements of IC 4-13.6-4. The person's response to the request for proposals must include a copy of the person's certificate of qualification issued under IC 4-13.6-4.**

**(C) The person provides energy conservation engineering services by a professional engineer licensed under IC 25-31 who is under the person's direct employment and supervision. The person's response to the request for proposals must include the license number of each professional engineer employed by the person to satisfy the requirement of this clause.**

**(D) The person provides:**

**(i) monitoring for the facility performance guarantee; and**

**(ii) service personnel under the person's direct employment and supervision;**

**for the duration of the contract's guarantee.**

**(E) The person performs at least twenty percent (20%) of the work (measured in dollars of the total contract price) with its own workforce.**

**(F) The person submits to the school corporation or political subdivision a performance bond to ensure the qualified provider's faithful performance of the qualified provider's obligations over the term of the guaranteed energy savings contract.**

**(b) For purposes of a guaranteed energy savings contract entered into before July 1, 1999, a person who was a qualified provider under subsection (a)(1) at the time the contract was entered into remains a qualified provider for that contract after June 30, 1999. If the person enters into a guaranteed energy savings contract after June 30, 1999, the person must satisfy the requirements of subsection (a)(2) to be considered a qualified provider.**

**SECTION 11. IC 36-1-12.5-5.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5.3. (a) This section applies only to a guaranteed energy savings contract entered into after June 30, 1999.**

**(b) A qualified provider may enter into a subcontract:**

**(1) with a value of more than one hundred fifty thousand**

- 1           **dollars (\$150,000); and**
- 2           **(2) for the performance of any part of a guaranteed energy**
- 3           **savings contract;**
- 4           **only if the subcontractor is certified under IC 4-13.6-4."**
- 5           Renumber all SECTIONS consecutively.  
            (Reference is to EHB 1509 as printed March 12, 1999.)

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Senator MEEKS R